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HOUSE BILL 333

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Jimmie C. Hall

AN ACT

RELATING TO PUBLIC WORKS; AMENDING A SECTION OF THE NMSA 1978
TO EXEMPT SMALL PUBLIC SCHOOL PROJECTS FROM PREVAILING WAGE
RATES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 13-4-11 NMSA 1978 (being Laws 1965,
Chapter 35, Section 1, as amended) is amended to read:

"13-4-11. MINIMUM WAGES ON PUBLIC WORKS--WEEKLY PAYMENT--
POSTING WAGE SCALE--WITHHOLDING FUNDS.--

A. Every contract or project in excess of twenty
thousand dollars (\$20,000) [~~to which~~], except for public school
projects budgeted for less than two hundred fifty thousand
dollars (\$250,000), that the state or any political subdivision
thereof is a party to for construction, alteration, demolition
or repair [~~or any combination of these~~], including painting and

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underscored material = new
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1 decorating, of public buildings, public works or public roads
2 of the state and ~~[which requires or]~~ that involves the
3 employment of mechanics, laborers or both shall contain a
4 provision stating the minimum wages to be paid to various
5 classes of laborers and mechanics ~~[which]~~. The minimum wage
6 shall be ~~[based upon the wages that will be]~~ determined by the
7 director of the labor and industrial division of the labor
8 department ~~[to be]~~ based upon prevailing wages for the
9 corresponding classes of laborers and mechanics employed on
10 contract work of a similar nature in the state or locality ~~[and~~
11 ~~every]~~. A contract or project shall contain a stipulation that
12 the contractor, subcontractor, employer or any person acting as
13 a contractor shall pay all mechanics and laborers employed on
14 the site of the project, unconditionally and not less often
15 than once a week and without subsequent unlawful deduction or
16 rebate on any account. The full amounts accrued at time of
17 payment shall be computed at wage rates not less than those
18 stated in the minimum wage rates issued for the project.

19 ~~[A.]~~ B. For the purpose of making wage
20 determinations, the director of the labor and industrial
21 division of the labor department shall conduct a ~~[continuing]~~
22 program ~~[for the obtaining and compiling of]~~ to continually
23 obtain and compile wage-rate information and shall encourage
24 the voluntary submission of wage-rate data by contractors,
25 contractors' associations, labor organizations, interested

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1 persons and public officers. Before making a determination of
2 wage rates for any project, ~~[he]~~ the director shall give due
3 regard to ~~[the]~~ this information ~~[thus obtained. Whenever]~~.
4 The director ~~[deems that the data at hand are insufficient to~~
5 ~~make a wage determination, he]~~ may have a field survey
6 conducted for the purpose of obtaining sufficient information
7 upon which to make determination of wage rates. Any interested
8 person shall have the right to submit to the director written
9 data, views and arguments why the wage determination should be
10 changed.

11 ~~[B.]~~ C. The scale of wages to be paid shall be
12 posted by the contractor or person acting as a contractor in a
13 prominent and easily accessible place at the site of the work
14 ~~[and it is further provided that there may be withheld]~~. The
15 contracting officer may withhold from the contractor,
16 subcontractor, employer or any person acting as a contractor
17 ~~[so]~~ as much of accrued payments ~~[as]~~ that may be considered
18 necessary by the contracting officer to pay to laborers and
19 mechanics ~~[employed on the project]~~ the difference between the
20 rates of wages required by the director of the labor and
21 industrial division ~~[of the labor department to be paid to~~
22 ~~laborers and mechanics on the work]~~ and the rates of wages
23 received by such laborers and mechanics and not refunded to the
24 contractor, subcontractor, employer or any person acting as a
25 contractor or their agents.

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